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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,694	10/10/2001	Benoit Patrick Bertrand	05222.00153	3243

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BANNER & WITCOFF AND ATTORNEYS FOR ACCENTURE
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EXAMINER

HIRL, JOSEPH P

ART UNIT PAPER NUMBER

2129

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary

Application No.

09/868,694

Applicant(s)

BERTRAND ET AL.

Examiner

Joseph P. Hirl

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered June 3, 2005 for the patent application 09/868,694 filed on October 10, 2001.
2. All prior office actions are fully incorporated into this office action by reference.

Status of Claims

3. Claims 1, 5 and 10 are currently amended. Claims 1-18 are pending.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al (WO 97/44766 referred to as **Cook**).

Claims 1, 10

Cook anticipates (a) receiving indicia representative of a goal and presenting the goal on a display (**Cook**, p 10, l 24-31; Fig.4); (b) integrating examples into the presentation to provide assistance with achieving the goal (**Cook**, p 10, l 24-31; Fig.4; p 8, l 8-13); (c) monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal (**Cook**, p 10, l 24-31; Fig.4; p 8, l 8-13); and (d) providing a dynamic toolbar on the display to assist the student with achieving the goal, the dynamic toolbar being configurable for the presentation (**Cook**, Fig. 2A; Fig. 3, item 310; p 32, l 17-20) (EN: processor, memory and control logic are generic features of a computer to be found through out the prior art of Cook).

Claims 2, 11

Cook anticipates the dynamic toolbar is instantiated from information in a database (**Cook**, p 32, l 17-18 ;p 10, l 33-37; Examiner's Note (EN): to one of ordinary skill in the art, the logic of the toolbar and other features are resident in a data base; such is the generic way a computer operates).

Claim 3

Cook anticipates credit-processing material is integrated into the presentation. (**Cook**, p 12, l 3-34; p 20, l 10-14; EN: claim 1 is silent on creating an accounting goal; credit processing in concept is present in all professional disciplines (i.e. business, teaching, engineering, science, etc.).

Claims 4, 13

Cook anticipates the dynamic toolbar contains utilities that are integrated into the presentation (**Cook**, p 6, l 25-37; p 32, l 17-23; EN: utilities represent generic software (logic) necessary to provide functionality).

Claims 5, 14

Cook anticipates wherein the dynamic toolbar is instantiated by a message from the presentation to a database object containing information indicative of a current status of a presentation (**Cook**, p 9, l 12-24; p 10, l 33-37; p 11, l 1-9; p 24, l 12-23; p 32, l 17-23).

Claims 6, 15

Cook anticipates the dynamic toolbar contains polymorphic logic that is dynamically instantiated based on characteristics of the presentation when the toolbar is instantiated (**Cook**, p 7, l 10-29; p 21, l 9-23; p 32, l 17-23; EN: polymorphic logic is whatever logic).

Claims 7, 16

Cook anticipates wherein the dynamic toolbar includes linkages to an Internet (**Cook**, p 7, l 11-18; p 10, l 17-24; p 32, l 17-23).

Claims 8, 17

Cook anticipates the dynamic toolbar includes an interface to perform electronic mail management (**Cook**, p 10, l 17-24; p 32, l 17-23).

Claims 9, 18

Cook anticipates the dynamic toolbar includes an interface that supports telephony functions from the presentation (**Cook**, p 10, l 17-24; p 11, l 17-22; p 28, l 27-37; p 29, l 1-2; p 32, l 17-23).

Claim 12

Cook anticipates the dynamic toolbar is context-sensitive to the presentation (**Cook**, p 9, l 12-24; p 10, l 33-37; p 11, l 1-9; p 24, l 12-23; p 32, l 17-23; EN: context being substance).

Response to Arguments

6. The nonstatutory double patenting rejection of claims 1 and 10 is withdrawn.
7. Applicant's arguments filed on June 3, 2005 related to Claims 1-18 have been fully considered but are not persuasive.

In reference to Applicant's argument:

Claims 1-18 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by WO 97/44766 (Cook). The Applicant has amended claim 1 to clarify what is being claimed and to include the feature of "providing a dynamic toolbar on the display to assist the student with achieving the goal, the dynamic toolbar being configurable for the presentation." The Amendment is supported by the specification as originally filed. For example, the specification discloses (Page 13, lines 2-7):

Figure 7 illustrates the use of a toolbar to navigate and access application level features in accordance with a preferred embodiment. A student uses a toolbar to navigate and also to access some of the application-level features of the application. The toolbar is the inverted L-shaped object across the top and left of the Interface. The top section of the toolbar allows the user to navigate to tasks within the current activity. The left section of the toolbar allows the student to access other features of the application, including feedback. The student can have his deliverables analyzed and receive feedback by clicking on the Team button.

As taught by the above teachings of the present patent application, the user is provided a toolbar that is configured for the presentation so that the user can navigate tasks within the current activity and can access other features of the application. For example, the toolbar that is shown in Figure 7 includes the

"Journalize" selection for a journalizing presentation. (Page 13, lines 219_) The Office Action alleges (page 4, item 11) that "providing a dynamic toolbar on the display to assist the student with achieving the goal (Cook, Fig. 3, item : 10) (EN: processor, memory and control logic are genetic features of a computer to be found through the prior art of Cook,)" The Office Action further alleges (page 10, item 24) that "Applicant should appreciate that any toolbar is dynamic since such toolbar will activate with the students action." However, Cook merely teaches (Page 54, lines 11-14):

Below file system toolbar 306 is toolbar 310 for tools the system 1 as access to, Illustrated here are icons for a calculator, a word processor, communications, and starfish, a general purpose language tool.

It appears that Cook merely teaches a statically-configured toolbar for general purpose tools that are accessible by a student and that is not configurable for the presentation. Toolbar 310 is static and is not configured for a student's activity. As taught by Cook, toolbar 310 merely provides general purpose tools (e.g., a calculator, word processor, and starfish) that may be used in any presentation of the agent based instruction (ABI) system.

Examiner's response:

Para 11. applies. Further, limitations appearing in the specification but not recited in the claim are not read into the claim. Cook @ p 32, l 17-20 states in reference to Fig. 2A: "The system area at the top includes toolbar 218 for selecting particular available system components. In particular, always available on this toolbar are selection icons 219 for the calendar and scheduling tool." The calendar and scheduling tool "would always provide, among other features, a current date which has the feature of being dynamic and "configurable for the presentation" ... such is how a calendar tool works. Cook anticipates the applicant's feature of "the dynamic toolbar being configurable for the presentation."

Examination Considerations

8. The claims and only the claims form the metes and bounds of the invention.
- "Office personnel are to give the claims their broadest reasonable interpretation in light

of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

9. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

10. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

11. Examiner's Opinion: Paras 8-10 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

12. Claims 1-18 are rejected.

Correspondence Information

13. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anthony Knight can be reached at (571) 272-3687.

Any response to this office action should be mailed to:

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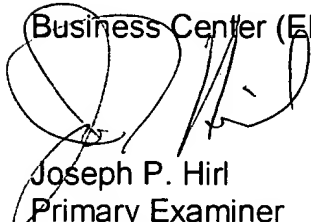
(located on the first floor of the south side of the Randolph Building);

or faxed to:

(571) 273-8300 (for formal communications intended for entry.

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Business Center (EBC) at 866-217-9197 (toll free).



Joseph P. Hirl
Primary Examiner
July 19, 2005